

Electronically filed on Apr. 4, 2011

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U.S. Bank, National Association  
10-74238

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:  
  
SANTIAGO SERRANO-LOPEZ,  
  
Debtors.

Case No. BK-S-10-26703-LBR  
Chapter 11

Hearing Date: April 20, 2011  
Hearing Time: 2:00 p.m.

**SECURED CREDITOR'S OPPOSITION TO DEBTOR'S MOTION TO VALUE  
COLLATERAL, "STRIP OFF" AND MODIFY RIGHTS OF CREDITORS  
PURSUANT TO 11 U.S.C. §506(a)  
RE:1428 HELEN BELLE DRIVE, LAS VEGAS, NEVADA 89110**

COMES NOW Secured Creditor U.S. BANK, NATIONAL ASSOCIATION by  
and through counsel and files this Opposition To Debtor's Motion To Value Collateral,  
"Strip Off" And Modify Rights Of Creditors Pursuant To 11 U.S.C §506(a).

This Opposition is in regards to the subject property located at 1428 Helen Belle  
Drive, Las Vegas, Nevada 89110. Secured Creditor is the first deed of trust holder on the  
subject property and is owed approximately \$101,510.97. The debtor hopes to strip the  
lien to \$62,000.00.

1 Secured Creditor does not agree that the debtor may bifurcate the claim pursuant  
2 to 11 USC 506(a) because it appears that the subject property is the debtor's personal  
3 residence. Debtor caused a Homestead Declaration to be recorded on the subject  
4 property on September 3, 2008. *See Exhibit #A.* Debtor has never released, withdrawn,  
5 or abandoned that declaration pursuant to NRS 115.040. According to the records of the  
6 Clark County Assessor, the debtor continues to utilize the subject property as his mailing  
7 address. *See Exhibit #B.* The debtor's Schedule I indicate that he receives \$2,250.00 in  
8 rental income, but Schedule G does not list any lease or rental agreements. *See Exhibits*  
9 *#C and #D.* If the subject property is in fact a rental, then the Secured Creditor is entitled  
10 to know the terms of the lease so that a proper valuation can be completed.  
11

12  
13 Secured Creditor is entitled to know the rents that the debtor is enjoying from the  
14 subject property so a proper valuation can be completed. The debtor's Schedule I  
15 indicates that he receives \$2,250.00 in rental income but does not specify how much of  
16 that rental income is received from this subject property as opposed to the other rental.  
17

18 Secured Creditor is unable to determine whether or not it would be feasible for the  
19 Debtors to afford the reduced value payments without knowing the current occupancy  
20 and rental value of the property. In addition, the Debtor does not provide for the expenses  
21 of property taxes, insurance, and maintenance of the subject property in his Schedule J. *See*  
22 *Exhibit E.* Because Schedule J is incomplete, Secured Creditor is also unable to  
23 determine whether or not the Debtors can afford the reduced value payments. This Court  
24 should not strip Secured Creditor's secured interest in the property without first requiring  
25 that the debtor provide a complete disclosure of his budget. Finally, the debtor does not  
26  
27  
28

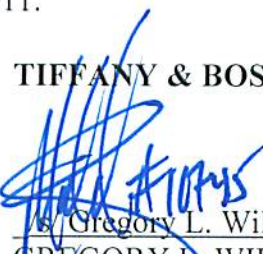
1 disclose what interest rate he is proposing and whether or not the reduced value payment  
2 will also provide for the required taxes and insurance.

3 Finally, even if the claim could be bifurcated, Secured Creditor does not agree  
4 with the reduction of the secured amount to the alleged value of \$62,000.00. Secured  
5 Creditor has requested its own appraisal of the subject property and requests that this  
6 Court continue this matter to allow that appraisal to be completed.

7  
8 WHEREFORE, Secured Creditor objects to the Debtors' valuation of the property  
9 and requests that it be allowed time to obtain access to the property. Secured Creditor  
10 also requests copies of the rent rolls and the lease agreement. Furthermore, it is requested  
11 that the Court set an evidentiary hearing thereafter to determine a proper value.  
12

13 DATED this 4<sup>th</sup> day of April, 2011.

14 **TIFFANY & BOSCO, P.A.**

15   
16 \_\_\_\_\_  
17 /s/ Gregory L. Wilde, Esq.  
18 GREGORY L. WILDE, ESQ.  
19 Nevada Bar No. 4417  
20 MATTHEW K. SCHRIEVER, ESQ.  
21 Nevada Bar No. 10745  
22 212 S. Jones Blvd  
23 Las Vegas NV 89107

24 Attorney for Secured Creditor  
25  
26  
27  
28

# EXHIBIT A

20080903-0001292

Assessor Parcel Number: 140-29-118-004 OR  
Assessor's Manufactured Home ID number \_\_\_\_\_

Fee: \$14.00  
H/C Fee: \$0.00

09/03/2008 09:41:42

T20080197130

Requestor:

S SERRANO

Debbie Conway ADF  
Clark County Recorder Pgs: 1

**Declaration of Homestead (Check One)**

☒ Married (filing jointly) \_\_\_\_\_ Married (filing individually)  
☐ Head of Family \_\_\_\_\_ Widowed  
☐ Multiple Single Persons \_\_\_\_\_ Single Person  
☐ By Wife (filing for joint benefit of both)  
☐ By Husband (filing for joint benefit of both)  
☐ Other: (Describe) \_\_\_\_\_

**A. (Check One)**

☒ Regular Home Dwelling/Manufactured Home \_\_\_\_\_ Condominium Unit \_\_\_\_\_ Other \_\_\_\_\_

Name on Title of Property SANTIAGO SERRANO

Do individually or severally certify and declare as follows: SANTIAGO SERRANO

is/are now residing on the land, premises (or manufactured home) located in the City of LAS VEGAS  
County of CLARK, State of Nevada, and more particularly described as follows:

(set forth legal description and commonly known street address OR manufactured home description)

ROSEWALK UNIT 5 PLAT BOOK 59 PAGE 89  
LOT 8 BLOCK 1 HELEN BELLE DR LAS VEGAS NV

B. ☒ I/We claim the land and premises hereinabove described, together with the dwelling house thereon, and its appurtenances, or the described manufactured home as a Homestead.

**C. (Check One)**

☒ (1) No former Declaration of Homestead has been made by me, or us, or either of us.

\_\_\_\_\_ (2) This Declaration constitutes an abandonment of the former Declaration recorded

In Witness, Whereof, I/We have hereunto set my hand/our hands this 3 day of SEPTEMBER 08

Santiago Serrano  
SANTIAGO SERRANO (Signature)  
(Print or type name here)

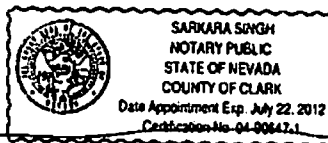
\_\_\_\_\_  
(Signature)  
(Print or type name here)

STATE OF NEVADA

COUNTY OF CLARK

This instrument was acknowledged before me on 9-3-2008

SANTIAGO SERRANO (date)



(Person(s) appearing before notary)

\_\_\_\_\_  
(Signature of notarial officer)

My commission expires: 7-22-2012

CONSULT AN ATTORNEY IF YOU DOUBT THIS FORM'S FITNESS FOR YOUR PURPOSE.

Recording Requested by and Mail to:

Name:

SANTIAGO SERRANO

Address/City State/Zip:

1428 HELEN BELLE DR LAS VEGAS NV 89110

This form provided as a courtesy to the taxpayer by: M. W. Schofield, Clark County Assessor.

The Assessor's Office assumes no liability for the completion of the Homestead Declaration.

## EXHIBIT B



GENERAL INFORMATION	
<b>PARCEL NO.</b>	140-29-118-004
<b>OWNER AND MAILING ADDRESS</b>	SERRANO SANTIAGO 1428 HELEN BELLE DR LAS VEGAS NV 89110-2805
<b>LOCATION ADDRESS CITY/UNINCORPORATED TOWN</b>	1428 HELEN BELLE DR LAS VEGAS
<b>ASSESSOR DESCRIPTION</b>	ROSEWALK-UNIT 5 PLAT BOOK 59 PAGE 89 LOT 8 BLOCK 1  SEC 29 TWP 20 RNG 62
<b>RECORDED DOCUMENT NO.</b>	* 20020329:03675
<b>RECORDED DATE</b>	03/29/2002
<b>VESTING</b>	NO STATUS

\*Note: Only documents from September 15, 1999 through present are available for viewing.

ASSESSMENT INFORMATION AND SUPPLEMENTAL VALUE	
<b>TAX DISTRICT</b>	200
<b>APPRAISAL YEAR</b>	2010
<b>FISCAL YEAR</b>	10-11
<b>SUPPLEMENTAL IMPROVEMENT VALUE</b>	0
<b>SUPPLEMENTAL IMPROVEMENT ACCOUNT NUMBER</b>	N/A

REAL PROPERTY ASSESSED VALUE		
<b>FISCAL YEAR</b>	2010-11	2011-12
<b>LAND</b>	4550	4550
<b>IMPROVEMENTS</b>	16106	18271
<b>PERSONAL PROPERTY</b>	0	0
<b>EXEMPT</b>	0	0
<b>GROSS ASSESSED (SUBTOTAL)</b>	20656	22821
<b>TAXABLE LAND+IMP (SUBTOTAL)</b>	59017	65203
<b>COMMON ELEMENT ALLOCATION ASSD</b>	0	0
<b>TOTAL ASSESSED VALUE</b>	20656	22821
<b>TOTAL TAXABLE VALUE</b>	59017	65203

ESTIMATED LOT SIZE AND APPRAISAL INFORMATION	
<b>ESTIMATED SIZE</b>	0.09 Acres
<b>ORIGINAL CONST. YEAR</b>	1994
<b>LAST SALE PRICE MONTH/YEAR</b>	128000 03/02
<b>LAND USE</b>	1-10 RESIDENTIAL SINGLE FAMILY
<b>DWELLING UNITS</b>	1

PRIMARY RESIDENTIAL STRUCTURE					
<b>TOTAL LIVING SQ. FT.</b>	1245	<b>CARPORT SQ. FT.</b>	0	<b>ADDN/CONV</b>	NONE
<b>1ST FLOOR SQ. FT.</b>	1245	<b>STORIES</b>	ONE STORY	<b>POOL</b>	NO
<b>2ND FLOOR SQ. FT.</b>	0	<b>BEDROOMS</b>	3	<b>SPA</b>	NO
<b>BASEMENT SQ. FT.</b>	0	<b>BATHROOMS</b>	2 FULL	<b>TYPE OF CONSTRUCTION</b>	FRAME STUCCO
<b>GARAGE SQ. FT.</b>	380	<b>FIREPLACE</b>	1	<b>ROOF TYPE</b>	CONCRETE TILE

# EXHIBIT C



B6I (Official Form 6I) (12/07)

In re **Santiago Serrano-Lopez**

Debtor(s)

Case No. **10-26703**

### SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S) - AMENDED

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
<b>Divorced</b>	RELATIONSHIP(S): <b>None.</b>	AGE(S):
<b>Employment:</b>	<b>DEBTOR</b>	<b>SPOUSE</b>
Occupation	<b>Construction</b>	
Name of Employer	<b>F &amp; F Trenching LLC</b>	
How long employed	<b>5 Years</b>	
Address of Employer	<b>2645 Marion Drive Las Vegas, NV 89115</b>	

INCOME: (Estimate of average or projected monthly income at time case filed)

1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)
2. Estimate monthly overtime

DEBTOR	SPOUSE
\$ <b>4,049.50</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>

3. SUBTOTAL

\$ <b>4,049.50</b>	\$ <b>0.00</b>
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4. LESS PAYROLL DEDUCTIONS

- a. Payroll taxes and social security
- b. Insurance
- c. Union dues
- d. Other (Specify): **401K**

\$ <b>530.70</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>202.50</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>

5. SUBTOTAL OF PAYROLL DEDUCTIONS

\$ <b>733.20</b>	\$ <b>0.00</b>
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6. TOTAL NET MONTHLY TAKE HOME PAY

\$ <b>3,316.30</b>	\$ <b>0.00</b>
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7. Regular income from operation of business or profession or farm (Attach detailed statement)
8. Income from real property
9. Interest and dividends
10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above
11. Social security or government assistance (Specify):

\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>2,250.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>

12. Pension or retirement income
13. Other monthly income (Specify):

\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>
\$ <b>0.00</b>	\$ <b>0.00</b>

14. SUBTOTAL OF LINES 7 THROUGH 13

\$ <b>2,250.00</b>	\$ <b>0.00</b>
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15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

\$ <b>5,566.30</b>	\$ <b>0.00</b>
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16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)

\$ <b>5,566.30</b>	
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(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

# EXHIBIT D

B6G (Official Form 6G) (12/07)

In re **Santiago Serrano-Lopez**

Debtor

Case No. \_\_\_\_\_

## SCHEDULE G - EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Describe all executory contracts of any nature and all unexpired leases of real or personal property. Include any timeshare interests. State nature of debtor's interest in contract, i.e., "Purchaser", "Agent", etc. State whether debtor is the lessor or lessee of a lease. Provide the names and complete mailing addresses of all other parties to each lease or contract described. If a minor child is a party to one of the leases or contracts, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. Sec. 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m).

☐ Check this box if debtor has no executory contracts or unexpired leases.

Name and Mailing Address, Including Zip Code,  
of Other Parties to Lease or Contract

Description of Contract or Lease and Nature of Debtor's Interest.  
State whether lease is for nonresidential real property.  
State contract number of any government contract.

0

\_\_\_\_\_ continuation sheets attached to Schedule of Executory Contracts and Unexpired Leases

# EXHIBIT E

- |  |    |                 |
|--|----|-----------------|
| a. Average monthly income from Line 15 of Schedule I | \$ | <u>5,566.30</u> |
| b. Average monthly expenses from Line 18 above       | \$ | <u>1,213.00</u> |
| c. Monthly net income (a. minus b.)                  | \$ | <u>4,353.30</u> |

1 GREGORY L. WILDE, ESQ.  
 Nevada Bar No. 4417  
 2 MATTHEW K. SCHRIEVER, ESQ.  
 Nevada Bar No. 10745  
 3 **TIFFANY & BOSCO, P.A.**  
 4 212 South Jones Boulevard  
 Las Vegas, Nevada 89107  
 5 Telephone: 702 258-8200  
 Fax: 702 258-8787  
 6 [bk@wildelaw.com](mailto:bk@wildelaw.com),

7 U.S. Bank, National Association  
 8 10-74238

9 **UNITED STATES BANKRUPTCY COURT**  
 10 **DISTRICT OF NEVADA**

11 In Re: 12 Santiago Serrano-Lopez	BK Case No.: 10-26703-lbr  Date: April 20, 2011 Time: 2:00 p.m.  Chapter 13
Debtor.	

16 **CERTIFICATE OF SERVICE OF SECURED CREDITOR'S OPPOSITION TO**  
 17 **DEBTOR'S MOTION TO VALUE COLLATERAL, "STRIP OFF" AND MODIFY**  
 18 **RIGHTS OF CREDITORS PURSUANT TO 11 U.S.C. §506(a) RE: 1428 HELEN BELLE**  
 19 **DRIVE, LAS VEGAS, NEVADA 89110**

20 1. On 4/4/2011 I served the following document(s):

21 SECURED CREDITOR'S OPPOSITION TO DEBTOR'S MOTION TO VALUE  
 22 COLLATERAL, "STRIP OFF" AND MODIFY RIGHTS OF CREDITORS PURSUANT TO  
 23 11 U.S.C. §506(a) RE: 1428 HELEN BELLE DRIVE, LAS VEGAS, NEVADA 89110

24 2. I served the above-named document(s) by the following means to the persons as listed below:

25 ...  
 26

1           **X a. ECF System**

2           Erik Fitting  
3           lawyer.abogado@yahoo.com  
4           Attorney for Debtor

5           Steven L. Yarmy  
6           sly@stevenyarmylaw.com  
7           Attorney for Debtor

8           **X b. United States mail, postage fully prepaid:**

9           Erik Fitting, Esq.  
10          2420 Greens Avenue  
11          Henderson, NV 89014  
12          Attorney for Debtor

13          Steven L. Yarmy, Esq.  
14          1500 E. Tropicana, Suite #103  
15          Las Vegas, NV 89119  
16          Attorney for Debtor

17          Santiago Serrano-Lopez  
18          5988 Gulf Island Avenue  
19          Las Vegas, NV 89156  
20          Debtor

21          GE Money Bank  
22          c/o Recovery Management Systems Corp.  
23          Attn: Managing Agent  
24          25 SE 2nd Avenue, Suite 1120  
25          Miami, FL 33131-1605

26          PROBER & RAPHAEL, A LAW CORPORATION  
27          Attn: Managing Agent  
28          20750 Ventura Boulevard, Suite 100  
29          Woodland Hills, California 91364

30          US TRUSTEE  
31          300 Las Vegas Blvd., South, Suite #4300  
32          Las Vegas, NV 89101

33           ☐ **c. Personal Service**

34           I personally delivered the document(s) to the persons at these addresses:



1           ☐ 1. For a party represented by an attorney, delivery was made by handing the  
2 document(s) to the attorney's office with a clerk or other person in charge, or if no one is charge by  
3 leaving the document(s) in a conspicuous place in the office.

4           ☐ 2. For a party, delivery was made by handing the document(s) to the party or by  
5 leaving the document(s) at the person's dwelling house or usual place of abode with someone of suitable  
6 age and discretion residing there.

7           ☐ **d. By direct mail**

8           Based upon the written assignment of the parties to accept service by email or a court order. I  
9 caused the document(s) to be sent to the persons at the mail addresses listed below. I did not receive,  
10 within a reasonable time after the transmission, any electronic message or other indication that the  
11 transmission was unsuccessful.

12           ☐ **e. By fax transmission**

13           Based upon the written assignment of the parties to accept service by fax transmission or a court  
14 order. I faxed the document(s) to the persons at the fax numbers listed below. No error was reported by  
15 the fax machine that I used. A copy of the record of the fax transmission is attached.

16           ☐ **f. By messenger**

17           I served the document(s) by placing them in an envelope or package addressed to the persons at  
18 the addresses listed below and providing them to a messenger for service.

19           **I declare under penalty of perjury that the foregoing is true and correct.**

20           DATED this 4th day of April, 2011.

21  
22 By:  \_\_\_\_\_  
23  
24  
25  
26